



CONSIDERATION REPORT

**APPLICATION FOR AN ACCELERATED REVIEW
OF A DUMPING DUTY AND COUNTERVAILING DUTY
NOTICE APPLYING TO**

**CERTAIN HOLLOW STRUCTURAL SECTIONS
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA BY**

**JINAN IRON & STEEL GROUP CO., LTD. COLD ROLL-
FORMING STEEL CO.**

REPORT NO. 206

8 April 2013

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1 Summary and recommendations

This report provides the results of the Australian Customs and Border Protection Service's (Customs and Border Protection) consideration of an application by Jinan Iron & Steel Group Co., Ltd. Cold Roll-forming Steel Co. (Jinan Iron & Steel) for an accelerated review of the dumping duty notice and countervailing duty notice applying to certain hollow structural sections (HSS) exported to Australia from the People's Republic of China (China).

1.1 Recommendations

Customs and Border Protection recommends that the Chief Executive Officer (CEO) of Customs and Border Protection decide not to reject the application.

1.2 Application of law to facts

Division 6 of Part XVB of the *Customs Act 1901*¹ (the Act) sets out, among other things, the procedures to be followed by the CEO in dealing with an application for an accelerated review of a dumping duty notice or a countervailing duty notice in so far as it affects a particular exporter.

The Division empowers the CEO to reject or not reject the application for an accelerated review of anti-dumping measures.

1.3 Findings and conclusions

Jinan Iron & Steel's application for accelerated review of anti-dumping measures applying to HSS exported to Australia from China has been examined.

Customs and Border Protection finds that the:

- application satisfies the requirements of section 269ZF;
- conditions for rejection under subsection 269ZE(2) were not met; and
- circumstances in which an accelerated review can be sought have been satisfied.

Accordingly Customs and Border Protection concludes that the applicant is eligible to apply for an accelerated review, and recommends that the Delegate of the CEO not reject the application and the accelerated review continue.

¹ A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

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2 Background**2.1 Existing measures**

On 19 September 2011, Customs and Border Protection initiated an investigation into the alleged dumping and subsidisation of HSS exported to Australia from China, the Republic of Korea (Korea), Malaysia, Taiwan and Thailand.

On 6 June 2012, Customs and Border Protection terminated the countervailing investigation insofar as it related to the Chinese exporters Huludao City Steel Pipe Co., Ltd and Qingdao Xiangxing Steel Pipe Co., Ltd, and terminated the dumping investigation into Thailand.

The Minister for Home Affairs accepted Customs and Border Protection's recommendations in relation to the alleged dumping of the goods from China, Korea, Malaysia and Taiwan and subsidisation of the goods exported to Australia from China contained in REP 177.

A dumping duty notice in respect of goods exported from China, Korea, Malaysia and Taiwan and a countervailing duty notice in respect of goods exported from China was published on 3 July 2012.

2.2 The current accelerated review application

Name	Jinan Iron & Steel Group Co., Ltd. Cold Roll-forming Steel Co.
Role	Manufacturer
Address	South Airport Road Licheng District Jinan Shandong Province People's Republic of China 250101
Website	http://www.jglwxg.com/en/main.shtml

2.2.1 Background to the application for an accelerated review

On 8 January 2013, Qingdao Lightstar International Trade Co., Ltd (Qingdao Lightstar) lodged an application for an accelerated review of anti-dumping measures applying to exports of HSS from China to Australia in so far as it affects Qingdao Lightstar.

Customs and Border Protection corresponded with Qingdao Lightstar regarding its role in the export process in order to determine if Qingdao Lightstar was a trader or manufacturer of HSS. Through this correspondence Qingdao Lightstar informed Customs and Border Protection that:

- it was not a manufacturer of HSS but a trading company;

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- Jinan Iron & Steel was Qingdao Lightstar's sole supplier of HSS;
- it was not related to any manufacturers of HSS; and
- it was a privately-owned company not related to any other company.

In an email to Qingdao Lightstar, Customs and Border Protection advised that Customs and Border Protection would not usually consider an intermediary trader such as Qingdao Lightstar to be an exporter. As section 269ZE of the Act only allows a party considered to be an exporter to apply for an accelerated review, Customs and Border Protection suggested to Qingdao Lightstar that Jinan Iron & Steel submit an application for an accelerated review.

Customs and Border Protection also advised that regardless of which party is ultimately considered to be the exporter, the manufacturer from whom Qingdao Lightstar purchases HSS needed to complete a detailed exporter questionnaire and agree to a verification visit from Customs and Border Protection.

No further correspondence was received from Qingdao Lightstar that indicated:

- an intention to withdraw its application;
- that it no longer wished to pursue an accelerated review; or
- that it did not want to cooperate fully with Customs and Border Protection.

On 6 February 2013, Customs and Border Protection advised Qingdao Lightstar that its application for an accelerated review had been rejected, due to Qingdao Lightstar not being eligible to apply for an accelerated review, as Qingdao Lightstar is a trading company and is not a manufacturer of the goods, and is not considered to be an exporter.

On 26 February 2013, Customs and Border Protection received an application for an accelerated review from the manufacturer, Jinan Iron & Steel.

2.2.2 Accelerated Review Process

Pursuant to subsections 269ZG(1) and (2) the CEO must, no later than 100 days after the application is lodged, provide the Minister a report recommending:

- a) that the dumping duty notice or countervailing duty notice the subject of the application remain unaltered; or*
 - b) that the dumping duty notice or countervailing duty notice the subject of the application be altered:*
 - i. so as not to apply to the applicant; or*
 - ii. so as to apply to the applicant as if different variable factors had been fixed;*
- and set out the CEO's reasons for so recommending¹.*

¹ Subsection 269ZG(1).

There is no legislative requirement for Customs and Border Protection to maintain a public file for this accelerated review. However, in the interests of ensuring the

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process is conducted in an open and transparent manner, a public file will be maintained for this accelerated review.

This Consideration Report along with a non-confidential version of the application and response to the exporter questionnaire will be published on the Electronic Public Record, available at

<http://www.customs.gov.au/anti-dumping/cases/default.asp#Thepublicrecord>

Given the expedited nature of accelerated reviews and the shortened timeframe for Customs and Border Protection to produce a final report, any submissions by interested parties should be lodged before day 60 of the review – 27 April 2013.

The CEO may not be able to have regard to submissions received after this date if to do so would, in the CEO's opinion, delay the timely preparation of the final report to the Minister.

2.2.3 Key dates

26 February 2013	Application lodged
29 April 2013 ²	Submissions by interested parties due
2 May 2013	Response to exporter questionnaire due
6 June 2013	Final report to Minister due

² 27 April 2013 is a Saturday, so the due date defaults to the following Monday.

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3 Application for an Accelerated Review

3.1 Legislative Background

Section 269ZF requires that an application for accelerated review must:

- be in writing (subsection 269ZF(1));
- be lodged in accordance with subsection 269ZF(2);
- contain a description of the goods to which the dumping duty notice and the countervailing duty notice relates; and
- contain a statement of the basis on which the exporter considers that the particular notice is inappropriate in so far as the exporter is concerned.

3.2 Application

On 26 February 2013, Jinan Iron & Steel formally lodged an application for an accelerated review. A copy of the application is at **Confidential Attachment 1**.

On receipt of the application, the Director of Quality Assurance and Operational Support – International Trade Remedies Branch, Customs and Border Protection recorded the date on which the application was received as 26 February 2013 in accordance with subsection 269ZF(3). If the CEO's Delegate does not reject the application, the initiation date is the date of lodgement of the application.

3.2.1 Assessment of the application

The application received from Jinan Iron & Steel was in writing, lodged in accordance with subsection 269ZF(2) and contains a description of the goods to which the dumping duty notice and the countervailing duty notice relates.

Jinan Iron & Steel's grounds for lodging an application are that it had not exported HSS to Australia during the period 1 July 2010 to 22 April 2012³, and that it did not receive any government subsidies, payments or reimbursement for the production of the goods subject to anti-dumping measures. Jinan Iron & Steel claimed that it was not investigated during the original investigation, was not involved in the original investigation and is not related to any exporter who was involved in the original investigation.

3.3 Finding under section 269ZF

Customs and Border Protection is satisfied that the application complies with subsections 269ZF(1) and 269ZF(2) of the Act.

³ Subsection 269ZE(1) sets out that only a new exporter may apply for an accelerated review. A new exporter is defined (section 269T) as an exporter who did not export such goods to Australia at any time during the period starting at the start of the investigation period in relation to the application and ending immediately before the day the CEO places on the public record the statement of essential facts (SEF) in relation to the investigation of the application.

4 Goods under review**4.1 Goods under review**

The goods the subject of the measures (the goods) are:

certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21mm up to and including 165.1mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3mm. Categories of HSS excluded from the goods are conveyor tube; precision RHS with a nominal thickness of less than 1.6mm and air heater tubes to Australian Standard (AS) 2556.

Tariff classification

The goods are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995* (the Tariff Act):

- 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37);
- 7306.61.00 (statistical codes 21, 22 and 25); and
- 7306.69.00 (statistical code 10).

5 Circumstances in which an accelerated review may be sought**5.1 Status as a New Exporter****5.1.1 Background**

Subsection 269ZE(1) sets out that only a new exporter may apply for an accelerated review. A new exporter is defined (section 269T) as an exporter who did not export such goods to Australia at any time during the period:

- (a) starting at the start of the investigation period in relation to the application; and
- (b) ending immediately before the day the CEO places on the public record the statement of essential facts (SEF) in relation to the investigation of the application.

Section 269T also defines “application” in relation to a dumping duty notice or a countervailing duty notice, as meaning an application for the publication of such a notice.

5.1.2 Application

Customs and Border Protection considers that, due to the definitions in section 269T, the period within which a new exporter cannot have exported to Australia relates to the application for a dumping and countervailing duty notice, which in this case relates to the 2011 application by OneSteel Australian Tube Mills Pty Ltd (OneSteel ATM).

Thus, Customs and Border Protection considers the period for which Jinan Iron & Steel must not have exported to Australia (new exporter period) is from 1 July 2010, (the start of the investigation period), to 22 April 2012, (the day before the SEF for Investigation 177 was placed on the public record).

5.2 Exports during the New Exporter Period

A search of Customs and Border Protection’s import database for any exports by the manufacturer Jinan Iron & Steel did not reveal any exports of the goods from Jinan Iron & Steel Co during the period 1 July 2010 to 22 April 2012.

5.3 Cooperation in regards to the application for a dumping duty notice and countervailing duty notice

Paragraph 269ZE(2)(a) provides that, if the CEO is satisfied that because the exporter refused to cooperate in relation to the application for a dumping duty notice or a countervailing duty notice, the CEO may reject the application. To determine if the application for an accelerated review is valid in relation to paragraph 269ZE(2)(a), the exporter files for the original investigation (REP 177) were examined for any correspondence between Customs and Border Protection and

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Jinan Iron & Steel. No correspondence between Customs and Border Protection and Jinan Iron & Steel was found.

The exporter initiation mail out file was examined with no reference to Jinan Iron & Steel found. This is consistent with the finding that Jinan Iron & Steel did not export the goods to Australia during the investigation period for REP 177.

There are no grounds for rejection in terms of paragraph 269ZE(2)(a).

5.4 Relationships with selected exporters

Paragraph 269ZE(2)(b) provides that, if the CEO is satisfied that because the exporter is related to an exporter who was a selected exporter in relation to the application for a notice, the CEO may reject the application.

To determine if the application for an accelerated review is valid in relation to paragraph 269ZE(2)(b), the exporter questionnaire responses and/or visit reports for the REP 177 selected exporters were reviewed for company information and shareholding arrangements. There is no evidence to suggest that Jinan Iron & Steel is related to a selected exporter.

Given the information available there are no grounds for rejection in terms of paragraph 269ZE(2)(b).

5.5 Circumstances in which accelerated review may be sought

In accordance with section 269ZE, on review of the application, the following findings have been made about whether the circumstances exist in which an accelerated review may be sought:

- The applicant did not export hollow structural sections during the period for which new exporters cannot have exported. Thus the applicant meets the definition of a new exporter and satisfies the requirements for requesting an accelerated review as stated at subsection 269ZE(1);
- The applicant did not refuse to cooperate in relation to the application for a dumping duty notice or a countervailing duty notice, and the application should not be rejected under paragraph 269ZE(2)(a); and
- The applicant does not appear to be related to any selected exporters in the original investigation and the application should not be rejected under paragraph 269ZE(2)(b).

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PUBLIC RECORD**6 Conclusion**

Customs and Border Protection considered the application made by Jinan Iron & Steel to determine if it was valid as required by sections 269ZE, 269ZF and the definitions provided in section 269T of the Act.

Customs and Border Protection concludes that the:

- application satisfies the requirements of section 269ZF;
- conditions for rejection under section 269ZE were not met; and
- circumstances in which an accelerated review can be sought have been satisfied.

Accordingly, Customs and Border Protection concludes that the manufacturer Jinan Iron & Steel, which Customs and Border Protection considers to be the exporter, is eligible to apply for an accelerated review, and recommended that the Delegate of the CEO not reject the application and the accelerated review continue.

Should the CEO's Delegate decide to not reject this application and the accelerated review continues, it is recommended that the inquiry period be 1 January 2012 to 31 December 2012.

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7 Securities and Interim Dumping Duties (IDD) and Interim Countervailing Duties (ICD)

When an application for an accelerated review of a dumping duty notice is lodged, section 269ZH states that no interim duty can be collected in respect of consignments of goods entered for home consumption after the application is lodged and until the completion of the review. The CEO may, however, require and take securities under section 42 of the Act in respect of IDD and ICD that may be payable.

Should the delegate not reject the application, and continue an accelerated review, a declaration under paragraph 269ZH(b) will need to be made to ensure securities are collected for the period of the review. These documents have been prepared and attached at **Confidential Attachment 2**.

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Australian Government

Australian Customs and
Border Protection Service

CONSIDERATION OF AN APPLICATION UNDER SECTION 269ZF OF THE *CUSTOMS ACT 1901*

I, Scott Wilson, have considered, in terms of section 269ZF of the *Customs Act 1901* (the Act), an application by Jinan Iron & Steel Group Co., Ltd. Cold Roll-forming Steel Co., a new exporter, for an accelerated review of the dumping duty notice and countervailing duty notice in respect of hollow structural sections exported to Australia from the People's Republic of China.

Having regard to the matters contained in the application and to other information considered relevant, I am satisfied that:

- the application satisfies the requirements of section 269ZF;
- the conditions for rejection under section 269ZE(2) are not satisfied; and
- the circumstances in which an accelerated review can be sought have been satisfied.

In view of the above, I have decided that the application is valid.

The attached assessment details the consideration of the application and other relevant information, and provides the reasons relied on in making my decision in relation to the application.

Scott Wilson
Delegate of the Chief Executive Officer
Position Number 668

8 April 2013
